

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

LEWIS and MARIAH SAULS, as the	*	
legal representatives of their minor son,	*	
KADEN SAULS,	*	No. 08-755V
	*	Special Master Christian J. Moran
Petitioners,	*	
v.	*	
	*	Filed: January 22, 2010
SECRETARY OF HEALTH	*	
AND HUMAN SERVICES,	*	Ruling on the record; DTaP
	*	vaccine; encephalopathy
Respondent.	*	
	*	
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**UNPUBLISHED DECISION<sup>1</sup>**

On October 23, 2008, the Sauls filed a petition seeking compensation, on behalf of their minor son Kaden, under the National Vaccine Injury Compensation Program (“the Program”). The Sauls alleged that Kaden received a DtaP, Hepatitis B, IPV, and Pneumococcal Conjugate vaccination on November 4, 2005. They allege that Kaden suffered the first symptoms of a Vaccine Injury Table condition within three days of receiving the November 4, 2005 DTaP vaccination. The information in the record, however, does not show entitlement to an award under the Program.

To receive compensation under the Program, a petitioner must prove either: 1) he suffered a “Table Injury” - i.e., an injury falling within the Vaccine Injury Table – corresponding to one of the vaccinations in question, or 2) that any of his medical problems were actually caused by the vaccine. See 42 U.S.C. §§ 300aa-13(a)(1)(A) and 300aa-11(c)(1). While petitioners initially claimed that Kaden suffered a “Table Injury” in their petition, during a status

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post it on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002).

All decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would clearly be an unwarranted invasion of privacy. When such a decision or designated substantive order is filed, the person submitting the information has 14 days to identify and to move to delete such information before the document's disclosure. If the special master agrees that the identified material fits within the categories listed above, the special master shall redact such material from public access. 42 U.S.C. § 300aa-12(d)(4)(B); Vaccine Rule 18(b).

conference conducted on January 15, 2010, the petitioners withdrew that claim. Furthermore, petitioners stated that they would not be filing a medical expert's opinion indicating that any of Kaden's problems were related to the vaccine in question.

Under the statute, a petitioner may not be given a Program award based solely on the petitioner's claims alone. Rather, the petition must be supported by either the medical records or by the opinion of a competent physician. 42 U.S.C. § 300aa-13(a)(1). Here, because the medical records do not seem to support the petitioners' claims, a medical opinion must be offered in support. Petitioners, however, offered no such opinion.

In a motion filed on December 22, 2009, petitioners requested a ruling on the record as it now stands. The court hereby grants petitioners' motion for ruling on the record and makes its decision based on the written filings. Vaccine Rule 8(d).

Under the law, compensation may only be awarded when a medical condition either falls within one of the "Table Injury" categories, or is shown by competent medical opinion to be vaccine-caused. No such proof exists in the record. Accordingly, it is clear from the record that the Sauls have failed to demonstrate either that Kaden suffered a "Table Injury" or that his condition was "actually caused" by a vaccination.

Therefore, the only alternative remains is to DENY this petition. In the absence of a motion for review, the clerk is directed to enter judgment accordingly.

IT IS SO ORDERED.

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Christian J. Moran  
Special Master